

**ALLEGED SHIPMENT:** On or about May 13, 1943, from the State of California into the State of Washington.

**PRODUCT:** Examination disclosed that the product consisted essentially of dried whey.

**NATURE OF CHARGE:** Misbranding, Section 403 (a). The label statements, "Lactose is the most nutritious of all sugars," and "If overweight, take immediately before meals," were false and misleading since they represented and suggested that lactose is the most nutritious of all sugars and that the article would be efficacious in the reduction of body weight. Lactose is no more nutritious than other sugars, and the article would not be efficacious in the reduction of body weight. The label statements, "provides energy \* \* \* necessary to replace and rebuild worn out muscle and other tissues and body cells," were misleading since they suggested and created the impression that consumption of the article is necessary to normal nutrition; that the normal diet needs to be supplemented by the article, or a similar food, in order to obtain sufficient energy and to obtain sufficient materials to replace and rebuild worn out muscle and other tissues and body cells; and that the article was of special and peculiar value in supplying the body with energy and materials to replace and rebuild worn out muscle and other tissues and body cells. Consumption of the article is not necessary to normal nutrition. The normal diet need not be supplemented by the article, or a similar food, since it contains sufficient energy producing and muscle, tissue, and cell building substances. Furthermore, the article did not possess the special and peculiar value implied in the labeling since it consisted of dried whey, which contains nutritive substances common to many foods.

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary use by reason of its vitamin properties in respect of riboflavin and its mineral properties in respect of calcium and phosphorus, and its label did not bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for riboflavin, calcium, and phosphorus which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1778.

**DISPOSITION:** June 23, 1944. A plea of guilty having been entered, the court imposed a fine of \$25 on each of 2 counts.

**9182. Misbranding of Earp Minerals. U. S. v. George H. Earp-Thomas (Earp Laboratories). Plea of guilty. Fine, \$50. (F. D. C. No. 15569. Sample No. 82867-F.)**

**INFORMATION FILED:** August 3, 1945, District of New Jersey, against George H. Earp-Thomas, an individual trading as Earp Laboratories, Bloomfield, N. J.

**ALLEGED SHIPMENT:** On or about August 4, 1944, from the State of New Jersey into the State of New York.

**PRODUCT:** Examination showed that the article was a very dilute solution of sodium and potassium carbonates, potassium phosphate, magnesium sulfate, and traces of ferrous and copper malate.

**LABEL, IN PART:** "Earp Minerals."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), the label statements, "For Increasing Mineral Nutrition Contains: Potassium, Sodium, Magnesium, Phosphorus, Iron and Copper \* \* \* Normal dose half teaspoonful in half glass of water or according to physician's directions. Never take undiluted," were false and misleading since they represented and suggested that the article, when used in the dosage directed and suggested, contained the minerals necessary in human nutrition in amounts sufficient to contribute in an important respect to the requirements of the body. The article would not supply the minerals necessary to human nutrition in the amounts represented and suggested since it contained no significant amount of any mineral.

**DISPOSITION:** September 21, 1945. A plea of guilty having been entered, the defendant was fined \$50.